



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Agenda CITY COUNCIL

*R. Steve Tumlin, Mayor*  
*Stuart Fleming, Ward 1*  
*Grif Chalfant, Ward 2*  
*Johnny Walker, Ward 3*  
*G. A. (Andy) Morris, Ward 4*  
*Anthony Coleman, Ward 5*  
*Michelle Cooper Kelly, Ward 6*  
*Philip M. Goldstein, Ward 7*

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Wednesday, June 11, 2014

7:00 PM

Council Chamber

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### CALL TO ORDER:

### INVOCATION:

*Council Member Johnny Walker, Ward 3*

### PLEDGE OF ALLEGIANCE:

### PRESENTATIONS:

#### **20140605 Recognition of Volunteers**

Council Person Kelly and Keep Marietta Beautiful Director, Joan Ellars, recognize volunteers from Atlanta Gas Light who came out and volunteered their time and worked hard to build 2 sets of stairs at Wildwood Park. Last year they built a fence around an historical area within the park.

#### **20140550 Mobile Application App Award**

IT Director, Ronnie Barrett recognizes Ross Brewer, GIS Analyst, for winning the Mobile Application App award for his submission of the city's Digital Downtown Directory at the Southeast Regional GIS conference in Charlotte.

### PROCLAMATIONS:

### ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

### SCHEDULED APPEARANCES:

**UNSCHEDULED APPEARANCES:****CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (\*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

**MINUTES:**

- \*      **20140634      Regular Meeting - May 14, 2014**  
Review and approval of the May 14, 2014 regular meeting minutes.
- \*      **20140635      Special Meeting - May 28, 2014**  
Review and approval of the May 28, 2014 special meeting minutes (3:30 pm).
- \*      **20140636      Special Meeting - May 28, 2014**  
Review and approval of the May 28, 2014 special meeting minutes (4 pm).

**MAYOR'S APPOINTMENTS: (for informational purposes only)**

- 20140657      Marietta Housing Authority Appointment**  
Reappointment of Chervonta "Taye" Pugh to the Marietta Housing Authority Board for a one year term expiring April 29, 2015.
- 20140658      Marietta Housing Authority Appointment**  
Reappointment of J. Larry Stevens to the Marietta Housing Authority for a term of five (5) years expiring on May 29, 2019.

**CITY COUNCIL APPOINTMENTS:**

- \*      **20140601      Marietta Historic Board of Review Appointments**  
Reappointment of Terry Lee (Ward 5) to the Historic Board of Review for a one (1) year term, expiring June 11, 2015.
- \*      **20140568      Board of Zoning Appeals Appointment (Ward 6)**  
Appointment of Bobby Vanburen to the Board of Zoning Appeals (Ward 6), for a term of two (2) years.

\*      **20140194      Marietta Historic Board of Review Appointment**

Appointment of Kellie Contreras to the Historic Board of Review (Ward 6) for a term of two (2) years.

**ORDINANCES:**

**RESOLUTIONS:**

**CITY ATTORNEY'S REPORT:**

\*      **20140552      Denial of Claim**

Denial of claim of Troy Lann.

\*      **20140553      Denial of Claim**

Denial of claim of Deshona Barron.

\*      **20140612      Denial of Claim**

Denial of the claim of Marc Allen Emkes.

\*      **20140613      Denial of Claim**

Denial of the claim of The Home Depot U.S.A., Inc.

**CITY MANAGER'S REPORT:**

**MAYOR'S REPORT:**

**COMMITTEE REPORTS:**

**1. Economic/Community Development: G. A. (Andy) Morris, Chairperson**

\*      **20140563      Marietta Redevelopment Corporation: Articles of Incorporation**

Motion approving a request from the Board of Directors of the Marietta Redevelopment Corporation to Mayor and City Council to accept and approve the amendments to its Articles of Incorporation as presented.

*Council Members Goldstein and Coleman Opposed*

\*      **20140564      Marietta Redevelopment Corporation: Corporate By-Laws**

Motion approving a request from the Board of Directors of the Marietta Redevelopment Corporation to Mayor and City Council to accept and approve the amendments to its Corporate By-Laws as presented.

*Council Members Goldstein and Coleman Opposed*

\*      **20140579      FFY 2015-2017 CDBG Joint Cooperation Agreement**

Motion approving the FFY' 2015-2017 CDBG Joint Cooperation Agreement with Cobb County

**20140424      City of Marietta Section 8 Program**

Motion to approve an Intergovernmental Agreement for the interim management of the City of Marietta HCV program by the Marietta Housing Authority.

**20140659      Resolution Transferring the City of Marietta Housing Choice Voucher Program to Marietta Housing Authority**

Approval of a Resolution for the transfer of the City of Marietta Housing Choice Voucher Program to Marietta Housing Authority.

## **2. Finance/Investment: Stuart Fleming, Chairperson**

\*      **20140548      Adoption of Recommended Budget for FY2015**

Approval of an Ordinance adopting an Annual Budget for the fiscal year beginning July 1, 2014 and ending June 30, 2015, for the various funds of the City of Marietta and enacting the tentative Ad Valorem tax levies for said fiscal year for support of the City of Marietta governmental operations and other public purposes, and debt service obligations.

**\* 20140578 Tourism Grants**

Motion to approve request to allocate hotel/motel and 3% auto rental tax funds according to the FY2015 Welcome Center Contract.

*Council member Goldstein disclosed that he is the owner of and a general manager for the Herbert S. Goldstein Family Limited Partnership that owns the Earl Smith Strand Theater at 115-119 North Park Square, Marietta GA. The tenant is Friends of the Strand, Inc. Additionally, the Atlantic Lyric Theater, Inc., has leased props from Philip Goldstein and is a tenant at 11 West Anderson Street, Marietta, Ga. a/k/a Alley Stage Theatre. Council member Goldstein also owns the properties now occupied by the Young Actor's Playhouse (formerly occupied by Theatre in the Square, Inc.) Council member Goldstein abstains on and will not participate on allocation of funds to the above entities or entities that lease the above properties.*

*Council member Goldstein is or has been a member of: Friends of Brumby Hall, Inc., Cobb Landmarks and Historical Society, Inc., Marietta-Cobb Museum of Art; and the Marietta Museum of History.*

*Mayor Tumlin has served as a director, but is currently not serving, of the following organizations being considered for sponsorships: Marietta-Cobb Museum of Art; Marietta Museum of History, Inc.; and Friends of the Strand, Inc. Additionally, Mayor Tumlin has provided legal services to Friends of the Strand, Inc. and accounting services to Marietta Museum of History, Inc. Mayor Tumlin has been/is a Member of Brumby Hall, Inc. and Cobb Landmarks & Historical Society.*

*Council member Walker serves on the Friends of Brumby Hall Board.*

*Council member Goldstein Abstaining*

### **3. Judicial/Legislative: Philip M. Goldstein, Chairperson**

**\* 20140536 Revised Detailed Plan for Manor Park Lot 26**

Motion to approve the revised detailed plan for Manor Park Lot 26, as prepared by Planners & Engineers Collaborative, and dated July 30, 2013, for Acadia Homes. The developer shall amend homeowners association covenants to require that any issues or problems involving improper parking shall be the responsibility of the homeowners association to resolve prior to involving City of Marietta staff or police officers. A copy of the recorded changes to the covenants are hereby attached as exhibit A and dated June 11, 2014.

\*      **20140537      Revised Detailed Plan for Manor Park Lot 1 - 16**

Motion to approve the revised detailed plan for Manor Park Townhomes Lot 1 through Lot 16, as prepared by Apalachee Land Surveying, Inc., and dated May 12, 2014, for Brock Built Homes, Inc. The developer shall amend homeowners association covenants to require that any issues or problems involving improper parking shall be the responsibility of the homeowners association to resolve prior to involving City of Marietta staff or police officers. A copy of the recorded changes to the covenants are hereby attached as exhibit A and dated June 11, 2014.

**4. Parks, Recreation and Tourism: Michelle Cooper Kelly, Chairperson**

\*      **20140207      329 Allgood Road**

Motion to authorize the acquisition of property located at 329 Allgood Road and owned by Ray D. Summerour on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

PUBLIC HEARING

*Council member Coleman Opposed*

\*      **20140555      Brown Park Funding Request**

A motion approving the appropriation of \$47,234 from the 2009 Parks Bond Fund; specifically, from Category B - IMPROVEMENTS TO EXISTING PARKS AND FACILITIES - Brown Park, to complete the installation of additional granite walls for soldier names recently discovered, and hardscape and landscape improvements to complete Brown Park.

\*      **20140556      Birney Park Funding Request**

A motion approving the allocation of \$12,995 from the 2009 Parks Bond; specifically, from Category B - IMPROVEMENTS TO EXISTING PARKS AND FACILITIES - Birney Street Park, to replace the pavilion roof at Birney Park and paint the support structure.

\*      **20140559      Request from the Earl Smith Strand Theatre for street and parking space closures**

A motion approving the closure of N. Park Square and parking spaces on E. Park Square Saturday, July 19th (afternoon and evening) for the purpose of conducting a car show in conjunction with the Creepers Club. The event will serve as a fundraiser for the Strand Theatre and help to raise awareness for that venue and the Creepers Club. Further, the event is approved as a city sanctioned event per City Code Section 10-4-070 (G) and the consumption of beer, wine, and liquor in Glover Park and the sale of beer and wine adjacent to Glover Park is hereby permitted under City Code Section 10-4-070 (E) and (F).

*Councilman Goldstein is an owner and a General Partner of the Herbert S. Goldstein Family Limited Partnership. Said entity is the owner of the property known as the Earl Smith Strand Theater at 117 North Park Square, Marietta, Ga. Councilman Goldstein will not participate in the discussion or in the vote on the issue in his capacity as a City Councilman.*

*Council member Goldstein Abstaining*

## **5. Personnel/Insurance: Johnny Walker, Chairperson**

\*      **20140567      Gateway Marietta Community Improvement District (CID)**

Appointment of Tom Flanigan, with Clarion Partners, to the board for the Gateway Marietta Community Improvement District (CID).

\*      **20140575      FY2015 Pay and Compensation Plan**

Approval of an Ordinance adopting the City of Marietta and Board of Lights and Water Position Allocations Chart and the Position Classification and Compensation Plans for the period of July 1, 2014 to June 30, 2015.

\*      **20140576      Update to the Consolidated Pension Plan**

Approval of an Ordinance amending the City of Marietta/BLW Retirement Plan 4532 (New Consolidated Plan) to bring the plan into compliance with IRS requirements.

## **6. Public Safety Committee: Anthony Coleman, Chairperson**

\*      **20140545      Standard Operating Procedures Amendments**

Motion approving revisions to the following Standard Operating Procedures for the Marietta Police Department: A023 Handcuffing, A030 Code of Conduct, A041 Organizational Structure, A042 Awards & Commendations, A044 Uniforms, Equipment & Department Property, A047 Internal Affairs, A054 Assignments, A070 Department Forms & Reports, A071 Crime Analysis, A090 Court Procedures, P049 Traffic Enforcement, P051 DUI Arrests, S033 Informants, S046 Asset Forfeiture.

\*      **20140427      Drug Free Zone**

Approval of an Ordinance for the designation of a Drug Free Commercial Zone.

**20140606      Crime Reduction Ordinance**

Approval of a Crime Reduction Ordinance for designated apartment complexes.

**7. Public Works Committee: Grif Chalfant, Chairperson**

\*      **20140412      Winter Street Parking**

Motion to install six parking spaces along Winter Street.

*Council member Goldstein disclosed that he owns property at 48 Atlanta Street (aka 39 Winter Street) and at 54-60 Atlanta Street. 54-60 is owned partly by Herbert S. Goldstein Family Limited Partnership (of which he is a part owner and general manager) PMG Investors, LLC (of which he is owner and manager) and/or himself. He does not own the City right-of-way where loading zones or parking space are currently located or proposed.*

*Council member Goldstein Abstaining*

\*      **20140542      Lakewood Drive Right of way**

Motion to authorize advertisement for a hearing regarding the abandonment and exchange of a portion of Lakewood Drive right of way.

\*      **20140566      Speed Limit on Maxwell Avenue**

Motion to approve request by Council Member Johnny Walker that the speed limit be reduced to 25 MPH on Maxwell Ave. The sections that need to be changed are between Durham and Whitlock & Northcutt and Wright St. (The portion of Maxwell that is already 25MPH is the section between Whitlock Dr and Northcutt).



\*      **20140571      GDOT Construction Agreement**

Motion to approve Construction Agreement with GDOT for the Powder Springs Rd @ S. Marietta Pkwy Intersection Improvement project.

**OTHER BUSINESS:**

\*      **20140599      500 N. Fairground Street**

Motion to approve settlement agreement between the City of Marietta and Ronald Ogunleye resulting in the purchase of the property by the city for \$94,000.00 which is the appraised value of the property by the city. The City Attorney is authorized to execute any and all documents in order to carry out the final settlement.

**20140521      11 Whitlock Avenue**

Motion to approve Permanent Easement Agreement between the City of Marietta as Grantor and Philip M. Goldstein as Grantee. This motion supersedes and replaces in its entirety the previous motion approved by the Mayor and Council on March 12, 2014. The Grantee of the Easement is given seven (7) days to execute the Easement and Indemnity Agreement and return same to the city.

*Council member Goldstein disclosed that he owns property at 9 & 11 Whitlock Avenue. Mr. Goldstein will abstain from any action as a Councilman on this item.*

\*      **20140615      HB489 Intergovernmental Agreement**

Motion to approve in principal the attached monetary allocation table to be included in the new HB489 Agreement between Cobb County and the six (6) cities of Cobb. This agreement increases the payment to the six (6) cities from the current amount of \$25,000,000.0, twenty-five million distributed over the last 10 years to \$50,000,000.00, fifty-million distributed over the next 10 years. Added to the agenda at the request of Mayor Tumlin.

\*      **20140618      Amendment to Exhibit A and Exhibit B attached to Gateway Marietta  
Community Improvement District Resolution # 1590**

Motion to amend Exhibit A (map) and Exhibit B (tax parcel list) attached to the Gateway Marietta CID resolution and as passed by Mayor and City Council on May 14, 2014 to reflect the removal of one parcel identified as 3001 Kingston Court, Parcel ID 17072600180 from the approved parcel list and Gateway Marietta CID map. See attached Marietta CID signed resolution.

\*      **20140647      677 Franklin Road**

Motion authorizing acquisition of a portion of property and easements at 677 Franklin Road from Angel House, Inc for the purpose of constructing the Franklin Road Improvements Project - From Twin Brooks to Las Colinas Apartments in exchange for \$60,580.00.

**\* 20140648 773 Franklin Road**

Motion authorizing acquisition of a portion of property and easements at 773 Franklin Road from Franklin Office, LLC for the purpose of constructing the Franklin Road Improvements - From Twin Brooks to Las Colinas Apartments in exchange for \$111,850.00 with stipulations to include:

1. The City of Marietta shall coordinate with Nuestros Ninos to install/construct driveway on any Saturday to prevent the disruption of ingress/egress during weekday business hours.
2. The City of Marietta shall install/replace in like kind a concrete driveway throughout the driveway easement area.
3. The City of Marietta will allow ingress and egress at all times during construction.
4. The City of Marietta shall keep all areas of acquisition as clean as possible to minimize dust in the area and shall power wash concrete driveway and affected parking areas as necessary to maintain a clean appearance.
5. As part of relinquishing a permanent driveway for the Franklin Road Improvement Project, the land owner's counter offer includes an allocation for landscaping within the temporary construction easement area from STA 194+75 to STA 175+77.
6. The City of Marietta is aware that one or more of the existing power poles scheduled for removal provides site lighting for the driveway and parking area of the private property. The land owner's counter offer includes an allocation for the land owner to design and install replacement lighting in such form and at such locations that are acceptable to land owner.
7. The City of Marietta shall complete the demolition and construction of one retaining wall before commencement of demolition and construction of the second wall.

**\* 20140649 782 Franklin Road**

Motion authorizing acquisition of a portion of property and easements at 782 Franklin Road from Leonard Bock and Harvey Cohen for the purpose of constructing the Franklin Road Improvements - From Twin Brooks to Las Colinas Apartments in exchange for \$159,325.00.

**\* 20140650 Parcel 5-T-S-1 (782 Franklin Road)**

Motion authorizing acquisition of the sign at 782 Franklin Road from Omiela, Inc. for the purpose of constructing the Franklin Road Improvements - From Twin Brooks to Las Colinas Apartments in exchange for \$3,825.00.

\*      **20140651      876 Franklin Road**

Motion authorizing acquisition of a portion of property and easements at 876 Franklin Road from Harry Livingston, Jr. for the purpose of constructing the Franklin Road Improvements Project - From Twin Brooks to Las Colinas Apartments in exchange for \$9,020.00.

\*      **20140656      82 N. Fairground Street**

Motion authorizing acquisition of temporary construction easements at 82 N. Fairground Street from Standard Asset Services, LLC for the purpose of constructing the Fairground Street Improvements - from Roswell Street to Rigby Street in exchange for \$7,500.00.

\*      **20140652      1260 Powder Springs Street**

Motion authorizing acquisition of a portion of property at 1260 Powder Springs Street from ALDI, Inc. Georgia for the purpose of constructing the Powder Springs Street Sidewalk Phase II Project in exchange for \$465.14.

\*      **20140653      1265 Powder Springs Street**

Motion authorizing acquisition of a portion of property and easements at 1265 Powder Springs Street from QT Associates, LTD. for the purpose of constructing the Powder Springs Street Sidewalk Phase II Project in exchange for \$5,337.00.

\*      **20140654      615 Lawrence Street**

Motion to authorize the acquisition of property owned by Douglas A. Powell (1/4), Patricia A. Prewett (1/4), Richard L. Powell (1/4) and Nu Powell and Victoria Stewart, as Co-Trustees of the Powell Trust (1/4) on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

\*      **20140638      BLW Actions of the June 9, 2014**

Review and approval of the June 9, 2014 actions and minutes of the Marietta Board of Lights and Water.

**UNSCHEDULED APPEARANCES:**

**ADJOURNMENT:**